

FEDERAL COMMUNICATIONS COMMISSION
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Washington, D. C. 20554

MAR 19 1999

OFFICE OF
MANAGING DIRECTOR

46-286

Anne Goodwin Crump, Esquire
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street
Eleventh Floor
Arlington, Virginia 22209

Re: Waiver of Regulatory Fee

Dear Ms. Crump:

This is in response to the request for a waiver of the fiscal Year (FY) 1998 regulatory fee that you filed on behalf of Valley Communications, Inc. ("Valley"), licensee of Station WFXW(AM), Geneva, Illinois.

You assert that Valley has suffered substantial operating losses in the past three years due to the uncertainties surrounding WFXW(AM)'s 1996 renewal application. In support of your request, you have submitted a copy of Valley's 1997 corporate tax return.

In establishing its regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. Thus, the Commission decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995). The Commission further held that regulatees can establish financial need by submitting:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

10 FCC Rcd at 12761-2762.

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for

Anne Goodwin Crump, Esquire

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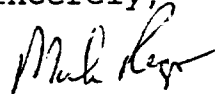
tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

The documents establish that Valley had financial losses in 1996 and 1997 which were not off-set by payments to officers or depreciation. Valley has established a pattern of financial hardship which merits a waiver of the FY 1998 regulatory fees.

The waiver, however, is limited to the FY 1998 regulatory fees. If Valley continues to experience financial hardship, you may request waivers for FY 1999 and succeeding years supported by appropriate documentation.

If you have any questions concerning the refund, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark Reger", with a stylized flourish at the end.

Mark Reger
Chief Financial Officer

Jenny
ANN BAVENDER*
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September 18, 1998

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WRITER'S DIRECT

BY HAND DELIVERY

Magalie Roman Salas, Esquire

Secretary

Federal Communications Commission

1919 M Street, N.W., Room 222

Washington, D.C. 20554

Attention: Managing Director

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SEP 18 1998

Federal Communications Commission
Office of Secretary

Re: Request for Waiver of Regulatory Fees &
Petition for Deferral of Regulatory Fees
WFXW(AM), Geneva, Illinois

Dear Ms. Salas:

Transmitted herewith, on behalf of Valley Communications, Inc., licensee of Station WFXW(AM), Geneva, Illinois, are an original and four copies of its "Request for Waiver of Regulatory Fees and Petition for Deferral of Regulatory Fees Due to Hardship."

Should any questions arise concerning this matter, please communicate with this office.

Very truly yours,

Anne Goodwin Crump

Anne Goodwin Crump

Counsel for Valley Communications, Inc.

Enclosures

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SEP 18 1998

BEFORE THE

Federal Communications Commission

Federal Communications Commission
Office of Secretary

WASHINGTON, D.C. 20554

In the Matter of)
)
Fiscal Year 1998 Regulatory Fees)
WFXW(AM), Geneva, Illinois)

Directed to: Managing Director

**REQUEST FOR WAIVER OF REGULATORY FEES AND
PETITION FOR DEFERRAL OF REGULATORY FEES DUE TO HARDSHIP**

Valley Communications, Inc. ("Valley"), licensee of Station WFXW(AM), Geneva, Illinois, by its attorneys, hereby respectfully requests that its regulatory fees for fiscal year 1998 be waived and that any payment of regulatory fees be deferred due to financial hardship. With respect thereto, the following is submitted:

1. Valley is seeking a waiver and deferral of its regulatory fees due for fiscal year 1998 due to substantial and continuing losses over the past several years. Because of these losses, Valley is unable to pay its assessed regulatory fees of \$1,250 plus fees for its auxiliary authorizations.

2. Over the past three years, Valley has suffered operating losses in excess of \$750,000. Many of these losses were caused by the uncertainties surrounding WFXW(AM)'s 1996 renewal application as the result of a petition to deny that application filed by the Rainbow-PUSH Action Network on November 1, 1996. There was then an approximately 18 month delay in resolving the issues related to the renewal application, as the Commission did not release its *Memorandum Opinion and Order and Notice of Apparent Liability*, FCC 98-16, granting the renewal

application until February 4, 1998. In addition, further uncertainties were caused by the pending sale of the station. On April 8, 1996, the Commission granted an application for consent to assignment of the WFXW(AM) license to CCC Communications, Inc. (File No. BAL-960222ED). Closing on that assignment was delayed first by financing difficulties of the proposed assignee, and subsequently by the pending renewal application. The closing then could not go forward until the Commission granted the renewal application. After the delay caused by the renewal application, the closing has since been further delayed by additional financing difficulties of the proposed assignee.¹ Because of these uncertainties, Valley had difficulty in maintaining its relations with advertisers and its staff and suffered considerable losses in its income.

3. Attached hereto is a copy of Valley's 1996 and 1997 tax returns. The 1996 return show a loss resulting from trade or business activities of \$311,654 for that year, while the 1997 return shows a similar loss of \$309,693. Also attached hereto is a side-by-side accounting of income and expenses to date for the calendar year 1998. That statement shows a net loss through July 31, 1998, of an additional \$130,427. Thus, over the years of 1996 and 1997 and the first seven months of 1998, Valley suffered a total net loss of \$751,794.

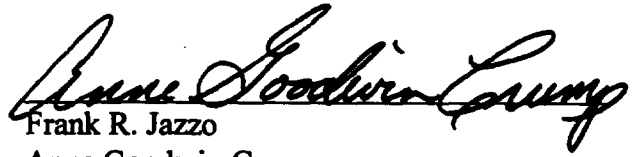
¹ A closing on the assignment is now anticipated by September 25, 1998, barring further unforeseen delays.

4. As a result of these substantial losses and financial hardships, Valley is unable to pay its assessed fiscal year 1998 regulatory fees. Therefore, Valley respectfully requests that its regulatory fees for fiscal year 1998 be waived and that any payment of regulatory fees be deferred pending the Commission's consideration and determination with respect to this request.

Respectfully submitted,

VALLEY COMMUNICATIONS, INC.

By:



Frank R. Jazzo

Anne Goodwin Crump

FLETCHER, HEALD & HILDRETH, P.L.C.
1300 North 17th Street
Eleventh Floor
Arlington, Virginia 22209
(703) 812-0400

September 17, 1998